



577903

Response to City Agenda

used to be state lead.

- A. **ROLES:** of EPA, MDEQ and Millennium at OU1 are defined the both by legal agreements between the parties and by the laws that make up the Superfund Program. The latter both authorize EPA and MDEQ to implement the Superfund Program and define the circumstances by which Millennium is the responsible party at OU1. *by law MDEQ pays 10%*
- Specifically, Millennium is the responsible party at OU1 because it is the owner operator of the former Allied Paper Landfill.
 - In early 2007, Millennium agreed to perform a supplemental remedial investigation and feasibility study for OU1 pursuant to an administrative consent order (Order) with EPA. Under Section X of that Order, Millennium must submit to EPA and MDEQ all documents for EPA review and approval.
 - After review, EPA shall
 - approve in whole or in part;
 - approve w/ conditions;
 - modify the document to cure deficiencies;
 - disapprove in whole or in part or 5) any combination of the above. Therefore EPA's role as lead agency in this matter is to oversee the RI/FS process which Millennium has agreed to perform.
 - MDEQ's role as supporting agency is to provide its review and comment to EPA during the process.
 - Moreover, EPA, MDEQ, and Millennium have hired contractors to support their respective roles. Except for providing its client with recommendations and conducting work on their behalf, these contractors have no formal role in this matter.
 - EPA believes that the City's role in this matter is to function as an engaged member of the public. EPA has and will continue to provide the public with opportunities to participate in the process.

Currently, EPA is awaiting Millennium's draft Feasibility Study which we, along with MDEQ, will review. Shortly after receiving the first draft of the FS, we plan to host a public meeting in which Millennium will explain its draft FS to the public. At this meeting, we would appreciate hearing the public's, including the City's, comments on the presentation of the FS. After this public meeting, EPA will continue with its review of Millennium's FS. EPA expects to present a proposed plan to the public for formal comment in late summer 2010.

CERCLA establishes the authority for direct federal response to abandoned or uncontrolled hazardous waste sites. Differs from RCRA which can react to present activities. Superfund allows EPA not to just be regulator but also authority to be active in cleanup. Part of our authority comes from our ability to take over work from an RP and do it ourselves. We take over work and then bill in triplicate. Once in charge, we're on the line.

- B. **INTERNAL ANALYSIS OF DOCUMENTS:** With regard to your proposed discussion of EPA's internal analysis of Millennium's documents (III), EPA does not share its internal deliberations and assessments outside the Agency. [Michael/Nicole: should we offer to provide our draft FS comment letter to the public?] Reference to our recent letter to MHLLC?
- EPA shows letters to City. Letters on the public meeting, and not deliberations. Will not be providing those things covered by the AOC SOW.
- C. **FUTURE INPUT:** At our meeting on Oct. 13th, EPA would like to hear, to the extent you have additional comments not already provided last month, your ideas/ suggestions on the alternatives Millennium presented at the September public meeting. These comments will inform EPA's review of Millennium's draft FS. While we understand the City's position against leaving the waste in place at OU1, EPA believes this option continues to be a viable alternative and one that EPA will be compared to other options using the nine criteria

identified at 40 C.F.R. 300.430. See also, 40 C.F.R. §300.430(a)(iii)(B) ("EPA expects to use engineering controls, such as containment, for waste that poses a relatively low long-term threat or where treatment is impracticable.")

- a. City can provide their comments on things to the RPs for their consideration. City not a part of the AOC and not authorized to enact the Superfund program.

D. **GROUNDWATER CRITIQUE** EPA will evaluate the groundwater monitoring when it is presented in the FS.

- a. Duration of Groundwater?
- b. 40 CFR 143.3 secondary MCLs we not select based upon them.